

ORDINANCE NO. 2021-14R

AN ORDINANCE OF THE CITY COUNCIL OF  
THE CITY OF ESCONDIDO, CALIFORNIA,  
ADOPTING AMENDMENTS TO THE  
ESCONDIDO MUNICIPAL CODE FOR THE  
SELECTION PROCESS AND TERMS AND  
COMPOSITION OF VARIOUS CITY AND  
INTERAGENCY BOARDS AND  
COMMISSIONS

WHEREAS, the City of Escondido (“City”) is a general law city governed by a legislative body comprised of a mayor elected at large and four councilmembers elected by districts who regularly rely on the work and advise of various boards and commissions which hear and consider various matters of public interest on behalf of the City of Escondido; and

WHEREAS, the City currently has the following City boards and commissions: Planning Commission, Public Arts Commission; Library Board of Trustees; Building Advisory and Appeals Board; Historic Preservation Commission; and, Transportation and Community Safety Commission; and

WHEREAS, the City’s mayor and councilmembers will also from time to time be appointed to and serve upon boards and commissions that are established pursuant to state law and/or include other government agencies (“Interagency Board”) such as the North County Transit District (NCTD), San Diego Association of Governments (SANDAG), San Dieguito River Valley, Association of Bay Area Governments (ABAG), League of California Cities, Regional Solid Waste Association Board, Escondido Creek Watershed Alliance, Air Pollution Control District (APCD); and, the San Diego County Water Authority (SDCWA); and

WHEREAS, the City's Municipal Code includes provisions relating to, among other items, the nomination, selection, composition, terms, and duties of the City's boards and commissions members; and

WHEREAS, as a general law City, the City of Escondido must comply with state law in the nomination and approval of boards and commissions members, including but not limited to Government Code section 40605, and must further comply with the nominating and membership rules relating to Interagency Boards; and

WHEREAS, on August 19, 2020, the City Council of the City established a Boards and Commissions ad hoc Subcommittee ("Subcommittee") to undertake a review of the nomination, selection, composition, terms, duties, governing rules, and other matters relating to the City's boards and commission members; and

WHEREAS, on October 5, 2021, the Subcommittee reported to the full City Council the results of the Subcommittee's examination and analysis of the current status of the City's boards and commissions and the full City Council did consider adopting changes to various provisions of the Escondido Municipal Code to: increase the efficiency and efficacy of the boards and commissions; to allow for greater participation by City residents in the boards and commissions; to provide for more accountability of the City's board and commission members to perform their duties and responsibilities; to establish a uniform set of by-laws to govern the boards and commissions; and, to allow for all councilmembers to provide more direct input into the nomination process for members of the City's boards and commissions such that these boards and commissions reasonably reflect the values of the City's legislative representatives; and

WHEREAS, on October 5, 2021, the City Council gave direction to staff to bring forward such amendments to the Escondido Municipal Code consistent with their comments to address their concerns about the current status of the City's boards and commissions.

The City Council of the City of Escondido, California, DOES HEREBY ORDAIN as follows:

SECTION 1. That the above recitations are true.

SECTION 2. That the proposed Municipal Code amendments are statutorily or categorically exempt from further review pursuant to the State law and CEQA Guidelines because the amendments are not considered to be a "Project" under CEQA, as defined in Public Resources Code section 21065 and CEQA Guidelines section 15378(b)(2) and (5), and no further environmental review is required.

SECTION 3. That the proposed amendments to the Escondido Municipal Code are consistent with state law.

SECTION 4. That, after consideration of all City Councilmember and public comments, the City Council finds, determines and declares that the amendments to the Escondido Municipal Code are in the best public interest and it approves and adopts such amendments that are attached as Exhibit "A" hereto and incorporated herein by this reference as though fully set forth herein.

SECTION 5. SEPARABILITY. If any section, subsection, sentence, clause, phrase or portion of this ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and

independent provision and such holding shall not affect the validity of the remaining portions.

SECTION 6. That as of the effective date of this ordinance, all ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 7. That the City Clerk is hereby directed to certify to the passage of this ordinance and to cause the same or a summary to be published one time within 15 days of its passage in a newspaper of general circulation, printed and published in the County and circulated in the City of Escondido.

PASSED, ADOPTED AND APPROVED by the City Council of the City of Escondido at a regular meeting thereof this 2<sup>nd</sup> day of March, 2022 by the following vote to wit:

AYES : Councilmembers: GARCIA, INSCOE, MORASCO, MARTINEZ, MCNAMARA

NOES : Councilmembers: NONE

ABSENT : Councilmembers: NONE

APPROVED:

DocuSigned by:  
*Paul McNamara*  
CAACE20782954D3  
PAUL MCNAMARA, Mayor of the  
City of Escondido, California

ATTEST:

DocuSigned by:  
*Zack Beck*  
A58535D0BDC1430  
ZACK BECK, City Clerk of the  
City of Escondido, California

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STATE OF CALIFORNIA )  
COUNTY OF SAN DIEGO : ss.  
CITY OF ESCONDIDO )

I, Zack Beck, City Clerk of the City of Escondido, hereby certify that the foregoing ORDINANCE NO. 2021-14R passed at a regular meeting of the City Council of the City of Escondido held on the 15<sup>th</sup> day of December, 2021, after having been read at the regular meeting of said City Council held on the 2<sup>nd</sup> day of March, 2022.

DocuSigned by:  
*Zack Beck*  
A58535D0BDC1430  
ZACK BECK, City Clerk of the  
City of Escondido, California

ORDINANCE NO. 2021-14R

## GENERAL PROVISIONS

### **Chapter 2. Administration.**

#### **Article 2. City Council.**

#### **Remove existing section 2-26 and replace with:**

##### **Sec. 2-26. Duty to appoint board and commission members; Bylaws.**

- (a) Unless otherwise provided by state law, the mayor shall appoint members and alternates to all state, county, city, and other interagency boards and commissions, including subcommittees.
- (b) Notwithstanding any other provisions of state law or any other laws of the city, the members of such boards and commissions shall serve at the pleasure of the city council and shall at all times be residents of the geographic area within the city's general plan.
- (c) Except for the Planning Commission and the Library Board of Trustees, all city-created boards and commissions shall be governed by a uniform set of by-laws which shall be approved by the city council through adoption of a Resolution.

### **Chapter 2. Administration.**

#### **Article 2. City Council.**

#### **Remove existing section 2-30 and replace with:**

##### **Sec. 2-30. Appointment and terms of office.**

Unless otherwise provided by this code, appointments of members of all boards and commissions created by the city council and their terms of office shall be governed by the following provisions:

- (a) The members of all boards and commissions shall be appointed by the mayor from among the residents of the geographic area within the city's general plan.
- (b) The members of all boards and commissions shall serve at the pleasure of the council, and may be removed from office at any time, without cause.
- (c) The terms of office for members of all boards and commissions established by the City of Escondido, with the exception of the Library Board of Trustees and Planning Commission, shall be for a two (2) year period commencing with the actual date of appointment and ending on March 31st of the second year thereafter.
- (d) Any vacancy which occurs prior to the expiration of a term shall be filled by appointment for the unexpired portion of such term consistent with the nomination procedure provided for in this section.

## BUILDING ADVISORY AND APPEALS BOARD

### **Chapter 6. Buildings and Building Regulations. Article 1. Administrative Provisions.**

#### **Remove existing section 6-11 and replace with:**

#### **Sec. 6-11. Building advisory and appeals board.**

**Sec. 6-11.1. General.** In order to hear and decide appeals of orders, decisions or determinations made by the building official relative to the application and interpretations of the technical code, there shall be and is hereby created a building advisory and appeals board consisting of seven (7) members who are qualified by experience and training to pass upon matters pertaining to building construction and building service equipment and who are not employees of the jurisdiction. The building official shall be an ex officio member and shall act as secretary to said board and shall keep the minutes thereof but shall have no vote upon any matter before the board. The board of appeals shall be appointed by the mayor from among the residents of the geographic area within the city's general plan. Members of the building advisory and appeals board shall serve at the pleasure of the council, and may be removed from office at any time, without cause. The board shall adopt rules of procedure for conducting its business and shall render all decisions and findings in writing to the appellant with a duplicate copy to the building official.

**Sec. 6-11.2. Appointment and Terms of Office.** Unless otherwise provided by this code, appointments of members of all boards and commissions created by the city council and their terms of office shall be governed by the following provisions:

(a) The terms of office for members of the building advisory and appeals board shall be for a two (2) year period commencing with the actual date of appointment and ending on March 31st of the second year thereafter.

(b) Any vacancy which occurs prior the expiration of the term shall be filled by appointment for the unexpired portion of such term consistent with the nomination procedure provided for in Section 2-30.

**Sec. 6-11.4. Duty to Elect Chairperson, Vice-chairperson.** The members of the building advisory and appeals board shall elect one of its number to serve as chairperson, and one of its number to serve as vice-chairperson, who shall preside in the absence of the chairperson.

**Sec. 6-11.5. To Determine Time, Place of Meetings.** The building advisory and appeals board shall hold its meetings at such time and place as it determines by resolution.

**Sec. 6-11.6. Special Meetings.** Special meetings of the building advisory and appeals board may be called pursuant to the provisions of Government Code, Section 54956.

**Sec. 6-11.7. Jurisdiction Generally.** The building advisory and appeals board shall have the following jurisdiction:

**Sec. 6-11.7.1.** Use of alternative materials, construction. Whenever a person proposes to use materials and/or methods of construction which are not in conformance with the laws of the city, but which, in the opinion of such person, are as suitable as the required materials and methods, he may propose the use of alternate materials and/or methods of construction to the board for approval.

**Sec. 6-11.7.2.** Refusal to issue permits. The refusal of the building official to issue any permit required by the city building department may be appealed by the applicant to the board.

**Sec. 6-11.7.3.** Notice to abate public nuisance. The action of the building official in issuing a correction notice or a notice to abate a public nuisance may be appealed to the board.

**Sec. 6-11.7.4.** Interpretation of city codes. The decision of the building official in interpreting provisions of the building code, electrical code, plumbing code, mechanical code and the housing, dangerous building and property maintenance codes, in full force and effect in the city, may be appealed to the board.

**Sec. 6-11.7.5.** The building advisory and appeals board shall have no authority relative to interpretation of the administrative provisions of this code or the administrative provisions of the technical codes, nor shall the board be empowered to waive requirements of either this code or the technical codes.

**Sec. 6-11.8. Appeal Procedures.** The procedures for making appeals to the building advisory and appeals board shall be as follows:

**Sec. 6-11.8.1.** Time for making appeal. Appeals to the board must be initiated within ten (10) days from the act, decision or interpretation which is the subject of the appeal.

**Sec. 6-11.8.2.** Form of appeal; contents. An appeal to the board must be in the form of a written statement delivered to the clerk of the board within the time prescribed by subsection (1) of this section. The written appeal must contain the name, address and telephone number of the appellant and a statement of the act, decision or interpretation being appealed. The appeal must contain a brief statement of the basis for the appellant's contention that the act, decision or interpretation in dispute was erroneous. Only those grounds stated in the written appeal may be considered by the board.

**Sec. 6-11.8.3.** When to consider, hear an appeal. The board shall consider an appeal at its next regular meeting after the filing of the appeal, unless the next regular meeting of the board is less than ten (10) days from the date of filing the appeal. If an appeal is filed less than ten (10) days prior to the next regular meeting of the board, the appeal shall be heard at the next succeeding regular meeting of the board, but, in no event, shall more than sixty (60) days elapse from the filing of an appeal and the hearing thereon, without consent of the appellant to the later date.

**Sec. 6-11.8.4.** Hearing, considering appeal. An appeal to the board shall be heard and considered by the board in a public meeting. The hearing may be continued



from time to time as the board may deem proper to reach a just decision on the appeal. At the time of the hearing of the appeal by the board, the appellant or his legal representative shall be heard by the board. The appellant may present any oral and legal arguments and evidence he wishes in prosecuting his appeal. The building director shall present a written report concerning the appeal, a copy of which shall be delivered to the appellant no later than the hearing date.

**Sec. 6-11.8.5.** Expert testimony. The board may require an appellant to present the reports of experts bearing on the subject matter of the appeal. The responsibility for, and the expense of obtaining and presenting expert reports is that of the appellant. The hearing on appeal may be continued from time to time pending the receipt of the reports of experts required to be presented by the board.

**Sec. 6-11.8.6.** Board to reach, report decision. At the conclusion of a hearing on appeal, the board shall deliberate in public meeting and reach a decision on the merits of the appeal. The decision of the board, together with such reasons as the board cares to express, shall be reported in the form of a formal resolution.

**Sec. 6-11.9. Decision of Appeals Board Subject to Appeal to Council.** The decision of the building advisory and appeals board on an appeal to it may be appealed to the council within ten (10) days of the disputed decision. The procedure of the appeal shall be as expressed in section 6-11.8.

**Sec. 6-11.10. Fee for Filing Appeal to Council.** There shall be a filing fee of one hundred dollars (\$100.00) payable to the clerk at the time of filing an appeal to the council.

## PLANNING COMMISSION

### **Chapter 20. Planning Commission.**

#### **Remove existing section 20-2 and replace with:**

#### **Sec. 20-2. Composition; appointment of members.**

The planning commission created by this chapter shall consist of seven (7) members who shall be appointed by the mayor as provided for in Section 2-30. All members must reside within the geographic area covered by the city's general plan and no more than three (3) members may reside outside the city limits. The planning commission should include members of the general public and licensed design professionals. Members of the planning commission shall serve at the pleasure of the council, and may be removed from office at any time, without cause.

## TRANSPORTATION AND COMMUNITY SAFETY COMMISSION

### **Chapter 28. Traffic.**

#### **Article 2. Administration and Enforcement.**

##### **Remove existing section 28-57 and replace with:**

##### **Sec. 28-57. Terms of office of members.**

Unless otherwise provided by this code, appointments of members of all boards and commissions created by the city council and their terms of office shall be governed by the following provisions:

(a) The terms of office for citizen-at-large members of the transportation and community safety commission shall be for a two (2) year period commencing with the actual date of appointment and ending on March 31st of the second year thereafter.

(b) Any vacancy which occurs prior to the expiration of a term shall be filled by appointment for the unexpired portion of such term consistent with the nomination procedure provided for in Section 2-30.

##### **Remove existing section 28-60 and replace with:**

##### **Sec. 28-60. Meetings procedure.**

The commission shall conduct its meetings in accordance with the adopted bylaws provided for in Section 2-26(c) and shall set the time and place of its meetings.

## BOARD OF PARKING PLACE COMMISSIONERS

### **Chapter 28. Traffic.**

#### **Article 2. Administration and Enforcement.**

##### **Remove existing section 28-74 and replace with:**

##### **Sec. 28-74. Terms of office of members.**

(a) The terms of office for members of the board of parking place commissioners shall be for a two (2) year period commencing with the actual date of appointment and ending on March 31st of the fourth year thereafter.

(b) Any vacancy which occurs prior to the expiration of a term shall be filled by appointment for the unexpired portion of such term consistent with the nomination procedure provided for in Section 2-30.

## PUBLIC ART COMMISSION

### **Chapter 33. Zoning. Article 37. Public Art.**

#### **Remove existing section 33-732 and replace with:**

##### **Sec. 33-732. Appointment and terms of office.**

(a) The city council shall appoint a public art commission, which shall meet as needed. The commission shall consist of seven (7) members possessing an interest in public art. Members of the public art commission shall be appointed by the mayor. Members shall reside or own a business within the city's general plan; up to two (2) members may be appointed who do not reside or own a business within the city's general plan provided they are employed at a business within the city's general plan. Members of the public art commission shall serve at the pleasure of the council, and may be removed from office at any time, without cause.

(b) The terms of office for members of the public art commission shall be for a two (2) year period commencing with the actual date of appointment and ending on March 31st of the second year thereafter.

(c) Any vacancy which occurs prior to the expiration of a term shall be filled by appointment for the unexpired portion of such term consistent with the nomination procedure provided for in Section 2-30.

(d) The commission shall appoint a chairperson and shall designate ex officio advisers to aid in the commission functions without vote.

(e) Ex officio advisers shall include:

- (1) A visual artist;
- (2) An architect or urban designer;
- (3) An arts professional such as a curator, fine arts collector, art critic or art educator;
- (4) A member of the business or industry community;
- (5) A member of the community services commission.

## HISTORIC PRESERVATION COMMISSION

### **Chapter 33. Zoning.**

#### **Article 40. Historical Resources.**

#### **Remove existing section 33-791 and replace with:**

#### **Sec. 33-791. Historic preservation commission.**

(a) Established membership. An historic preservation commission (HPC), shall be established by and serve at the discretion of the city council. The HPC shall act in an advisory capacity to the city council and planning commission in all matters relating to the identification, protection, retention and preservation of historical sites and areas within the city. All members of the HPC shall have demonstrated special interest, competence, experience or knowledge in historical preservation. Prior to appointment by mayor, the prospective HPC members shall have demonstrated that they meet the requirements of a commissioner set forth under the certified local government guidelines.

(b) Unless otherwise provided by this code, appointments of members of all boards and commissions created by the city council and their terms of office shall be governed by the following provisions:

(1) The HPC shall be comprised of seven (7) individuals from the community who represent a variety of perspectives related to historical preservation and which shall include the following:

(A) Professionals in the fields of American studies, anthropology, cultural geography, architecture, archaeology or other historical preservation-related disciplines. A minimum of two (2) and preferably a majority shall serve on the HPC to the extent these professionals are available in the community;

(B) Historians (a minimum of one (1));

(C) Members of the Escondido historic society (a minimum of one (1)); and

(D) Also, considered desirable to serve on the HPC are: owners of historical structures listed on the Escondido historic sites survey; and a representative from any formally approved historical district.

(2) Members of the historic preservation commission shall be appointed by the mayor from among the residents of the geographic area within the city's general plan. Members shall serve at the pleasure of the council, and may be removed from office at any time, without cause.

(3) The terms of office for members of the historic preservation commission shall be for a two (2) year period commencing with the actual date of appointment and ending on March 31st of the second year thereafter.

(4) Any vacancy which occurs prior to the expiration of a term shall be filled by appointment for the unexpired portion of such term consistent with the nomination procedure provided for in Section 2-30.

(c) HPC duties. The HPC shall act in an advisory capacity to the city council and planning commission in all matters relating to the identification, protection, retention, and preservation of historical sites and areas within the city and shall have the following responsibilities:

(1) Prepare an annual report to the mayor and city council on the activities, cases, decisions and other work of the HPC;

(2) Investigate and report to the city council on the use of various federal, state, local or private funding sources and mechanisms available to promote historical resource preservation in the city; and

(3) Assume whatever responsibilities and duties assigned to it by the state under the certified local government provisions of the National Historic Preservation Act of 1966 as amended.